IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 2709 of 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)

Versus

NARSINHBHAI RAMABHAI SONARA & 2 - Defendant(s)

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Appearance :

MR MD PANDYA for Appellant(s) : 1,
MR DC DAVE for Defendant(s) : 1 - 2.
NOTICE SERVED for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 01/09/2006

ORAL JUDGMENT

1. By way of this appeal, the appellant has challenged the judgement and award dated 18.02.93 passed by the Motor Accident Claims Tribunal (Special), Ahmedabad (rural) at Ahmedabad in MACP No. 801 of 1988 whereby the Tribunal awarded a sum of Rs. 1,00,000/- by way of compensation payable to the original claimants by the original opponets along with running interest at the rate of 15% per annum.

2. The original claimants had filed claim petition claiming compensation to the tune of Rs. 1,00,000/- in respect of the death of the minor son of the claimants on account of an accident which occurred on 16.05.88 while he was travelling in an S.T bus bearing no. GRU 9103 and being driven by original opponent no. 2 in a rash and

negligent manner. When the bus reached Vasna village, the door of the bus abruptly opened and the son of the claimants fell down from the bus thereby causing his death. The claim petition came to be filed under the said circumstance. The Tribunal after hearing the parties passed the aforesaid award.

3. Mr M.D Pandya, learned counsel for the appellant has contended that the Tribunal has erred in adopting a multiplier of 20 on the count that the parents of the deceased are in their late forties. He has further contended that Tribunal should have seen that when the Tribunal has a discretion to award or not to award interest as also in the matter of the date from which the interest is awarded, the said discretion is required to be exercised on sound judicial principles and in that view of the matter, the Tribunal ought not have awarded interest at a rate higher than 6% per annum.

3.1 Mr Pandya has placed reliance on a decision of the Karnataka High Court in the case of Managing Director, Karnataka Power Corporation Ltd. v. Geetha and others reported in 1988 ACJ 251 in order to substantiate his claim.

4. Heard learned counsel for the parties. I have gone through the award of the Tribunal and the evidence placed

on record. As regards the contention of multiplier being on the higher side is concerned, even if the same is accepted, the amount towards future loss of income shall come to Rs. 90,000/-(6000/- * 15). Thereafter, taking into consideration the amount of Rs. 10,000/- towards loss of expectation of life, Rs. 5000/- towards transportation, the total award shall come to Rs. 1,05,000/-. The Tribunal has however awarded only Rs. 1,00,000/-. In that view of the matter, I am of the view that the award of the Tribunal is not required to be disturbed as no fruitful purpose will be served in doing so.

4.1 However, as far as the contention regarding rate of interest is concerned, I am of the view that the same is on a higher sider and is accordingly required to be modified. In the case of Managing Director, Karnataka Power Corporation Ltd.(supra), it is held that though interest is a matter of discretion of the Tribunal, it should be exercised judicially and judiciously not arbitrarily or capriciously but in accordance with sound principles as interest is not awarded to plaintiff as damages but for being kept out of the money which ought to have been paid to him.

4.2 Even in the case of Parmar Kiritbhai Natwarlal v. Modi Somchand Chandulal & Ors decided by this Court in

First Appeal 392 of 1988 vide order dated 08.08.2006 after considering various cases and law laid down by the Apex Court, this Court has held in para 13 as under:

> "13. Thus, the interest is being granted to the claimant for being kept out of money which ought to have been paid to the claimant. I am also of the view that it is erroneous to predicate that there is anything in the law or the binding precedents that wherever interest is awarded, its rate should not be less than 12 per cent. Moreover, the respondent is engaged in a public utility service, which should not be burdened with heavy interest. Apart from that, looking to the present downward trend of rate of interest, and considering the above judgements, I am of the view that interest at the rate of 6% would meet the ends of justice. "

In that view of the matter, I am of the opinion that levying running interest at the rate of 6% will be just and proper in the present case.

5. In the premises aforesaid, the appeal is partly allowed. The rate of interest as awarded by the Tribunal is reduced to 6% instead of 12%. The award of the Tribunal is modified accordingly. No order as to costs.

(K.S. JHAVERI, J.)

Divya//